

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

JAMES C. WINDING (MDOC # K-8115)

PLAINTIFF

VS.

CIVIL ACTION NO. 3:13cv385-TSL-JMR

TYEASA EVANS, F. SHAW, F. OVALLE,  
R. RICE, D. SMITH, MTC, INC., R. DAVIS,  
MICHAEL WHITE, E.L. SPARKMAN,  
ANTHONY COMPTON, JIM NORRIS,  
KEITH BALL, CHRISTOPHER EPPS,  
D. HUGGINS, M. POWE, H. HOLLIE,  
A. HODGSON, V. RIVERA, AND L. PRUDE

DEFENDANTS

**DEFENDANTS' RESPONSE IN OPPOSITION TO  
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

COME NOW Defendants F. Shaw, F. Ovalle, R. Rice, D. Smith, Management & Training Corporation (improperly sued as MTC, Inc.), R. Davis, D. Huggins, M. Powe, H. Hollie, A. Hodgson, V. Rivera, and L. Prude, and file this their Response in Opposition to Plaintiff's Motion for Partial Summary Judgment [Docket No. 21], as follows:

1. On August 13, 2013, Plaintiff filed his Motion for Partial Summary Judgment [Docket No. 21], with nearly 40 pages of purported news articles and blog postings printed off the Internet attached as a supplement to his motion [Docket No. 21-1].

2. Rule 56(a) of the Federal Rules of Civil Procedure states:

**Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment, identifying each claim or defense – or the part of each claim or defense – on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

3. Plaintiff's motion fails to state each claim or defense or the part of each claim or

defense on which he seeks summary judgment. Plaintiff also fails to state to which Defendant(s) his motion applies. He simply asserts that the news articles and blog posts attached to his motion proves deliberate indifference and poor management on the part of Management & Training Corporation and Mississippi Department of Corrections officials.

4. All of the material contained in the supplement to Plaintiff's motion [Docket No. 21-1] constitutes inadmissible hearsay. As such, Defendants have moved to strike all materials contained in the supplement to Plaintiff's motion, pursuant to F.R.C.P. 56(c)(2).

5. Because Plaintiff has failed to establish that there is no genuine dispute of material fact as to any claim against these Defendants, Plaintiff's motion should be denied.

WHEREFORE, PREMISES CONSIDERED, these Defendants respectfully request the Court to deny Plaintiff's Motion for Partial Summary Judgment.

Respectfully submitted, this the 23<sup>rd</sup> day of August, 2013.

F. SHAW, F. OVALLE, R. RICE, D. SMITH,  
MANAGEMENT & TRAINING CORPORATION, R.  
DAVIS, D. HUGGINS, M. POWE, H. HOLLIE,  
A. HODGSON, V. RIVERA, AND L. PRUDE

BY: /s/ Steven J. Griffin  
OF COUNSEL

ROY A. SMITH, JR. - BAR # 7599  
[rsmith@danielcoker.com](mailto:rsmith@danielcoker.com)  
STEVEN J. GRIFFIN - BAR # 103218  
[sgriffin@danielcoker.com](mailto:sgriffin@danielcoker.com)  
DANIEL COKER HORTON AND BELL, P.A.  
4400 OLD CANTON ROAD, SUITE 400  
POST OFFICE BOX 1084  
JACKSON, MISSISSIPPI 39215-1084  
TELEPHONE: (601) 969-7607  
FACSIMILE: (601) 969-1116

**CERTIFICATE OF SERVICE**

I, Steven J. Griffin, hereby certify that on August 23, 2013, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which provided notice to all counsel of record, and I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participants:

James C. Winding, MDOC # K-8115  
c/o East Mississippi Correctional Facility  
10641 Highway 80 West  
Meridian, MS 39307

s/ Steven J. Griffin